

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 03-12250-RGS

EILEEN HELLER, TRUSTEE

v.

EILEEN HELLER, BARRY ROGOFF, INEZ DOLAN,
JULIE ROSENFIELD, ELIZABETH HELLER, PAUL HELLER,
JOHN HELLER, ROBERT M. HELLER, and
COMMISSIONER OF INTERNAL REVENUE

ORDER ON DEFENDANT'S MOTION TO DISMISS

January 14, 2004

STEARNS, D.J.

The motion will be ALLOWED for the reasons urged by the defendant, principally the failure of the plaintiff to establish any waiver of immunity from suit on the part of the United States. While plaintiff's failure to oppose the motion is not dispositive, Vega-Encarnacion v. Babilonia, 344 F.3d 37, 41 (1st Cir. 2003), I do not envision any effective opposition that could have been made. The clerk will therefore enter judgment for the defendant.

SO ORDERED.

/s/ Richard G. Stearns

UNITED STATES DISTRICT JUDGE

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